



South Florida Water Management District

MINUTES GOVERNING BOARD WORKSHOP

April 9, 2008

1:00 PM

District Headquarters - B-1 Auditorium
3301 Gun Club Road
West Palm Beach, FL 33406

Members Present:

Eric Buermann, Chair

Michael Collins

Charles Dauray

Shannon Estenoz

Paul C. Huck Jr.

Melissa Meeker

Jerry Montgomery

Patrick Rooney

Malcolm Wade

1. Call to Order - Eric Buermann, Chairman, Governing Board

Mr. Buermann called the meeting to order at 1:05 pm.

2. Pledge of Allegiance - Eric Buermann, Chairman, Governing Board

Mr. Buermann lead the group in the Pledge of Allegiance.

3. Approval of Minutes from the last month's Governing Board Meeting

Approval of the March 12, 2008, Workshop and the March 13, 2008, Business Meeting Minutes held in West Palm Beach, FL

Motion made by Melissa Meeker, seconded by Michael Collins to Approve the following item(s): 3

Vote called. Voting yes: Melissa Meeker, Michael Collins, Eric Buermann, Charles Dauray, Shannon Estenoz, Paul C. Huck Jr., Jerry Montgomery, Patrick Rooney, Malcolm Wade. Motion passed.

4. Agenda Addendum - Annette Carter, Director, Office of Governing Board and Executive Services

Annette Carter, Director, Office of Governing Board and Executive Services, read into the record the agenda addendum. Copies were made available to the public.

5. Abstentions by Board Members from items on the Workshop Agenda

There were no abstentions by Governing Board members.

6. Pull Items from Consent for Discussion on Governing Board Meeting Agenda

There were no items pulled from the Consent Agenda to Discussion Agenda.

7. Water Resources Advisory Commission (WRAC) Report - Mike Collins, Chair

Mr. Collins reported on the Water Resources Advisory Commission meeting held on April 3, 2008 and the WRAC Lake Okeechobee Committee held on March 26, 2008. Mr. Collins reported on the USACE's Integrated Delivery Schedule.

8. Project and Lands Committee Report - Harkley Thronton, Chair

Shannon Estenoz provided an oral report on the Project and Lands Committee Meeting which was held at the Okeechobee Service Center on April 8, 2008. Governing Board members had a tour of Lake Okeechobee.

21.

Administer Governing Board Member Oath of Office Annette Carter, Director, Office of Governing Board and Executive Services

Annette Carter, Office of Governing Board and Executive Services, swore in Governor's Crist's recommendation for new Governing Board members. Mr. Robert "Jerry" Montgomery and Paul C. Huck, Jr. are the new appointments. All Governing Board appointments must be confirmed by the Florida Senate.

Water Resources

9. Overview of Draft Water Conservation Plan - Deena Reppen, Deputy Executive Director, Government and Public Affairs and Chip Merriam, Deputy Executive Director, Water Resources Management

Deena Reppen, Deputy Executive Director, Government and Public Affairs announced that April is Water Conservation Month. Ms. Reppen reported on the Water Conservation Stakeholder Group meetings and stated the final plan will go to WRAC and the Governing Board in June.

Chip Merriam, Deputy Executive Director, reported on the Regulatory Initiatives which includes public water supply, agricultural and landscape irrigation, industrial institutional uses, and golf course initiatives.

Mr. Merriam reported on the voluntary and incentive-based initiatives.

Ms. Reppen reported on the education and marketing initiatives which are to: collaborate and coordinate with regional partners to educate and inform residents and visitors about their environmental, economic and social responsibilities; to foster a culture of conservation; and to position the State of Florida as a leader in water conservation.

Mr. Dauray provided comment on increasing the budget for education and outreach.

Mr. Collins provided comment on outreach, increasing the budget, and seeing deliverables.

Ms. Estenoz provided comment on water conservation outreach, costs for alternative water supplies, and permitting for consumptive use permits.

Mr. Collins requested an implementation plan for water conservation.

There was further Board discussion on increasing the budget for education and outreach. Chair Buermann requested the Audit and Finance Committee discuss the budget for outreach and education. Ms. Meeker suggested it be discussed at the Human and Outreach Committee.

There was discussion about a State-wide effort on water conservation for utility companies.

Public Comment: Commissioner DiTerlizzi, Martin County, commented on water conservation for the utilities and the costs for alternative water supplies.

Public Comment: Joel Jackson, Florida Golf Course Superintendent Association, commented on environmental principals of golf.

Public Comment: Bob Johnson, Florida Irrigation Society, commented on cultivation of grasses.

Public Comment: Paul Mattausch, Collier County, commented on funding for alternative water supplies for utilities and stated support for water conservation.

Public Comment: Martha Musgrove, citizen, commented on financial incentives for alternative water supplies.

10. Update on Rule Development for Chapter 40E-24, Mandatory Year-round Landscape Irrigation Measures - Chip Merriam, Deputy Executive Director, Water Resources Management

Mr. Merriam reported on the rule development for the mandatory year-round landscape irrigation measures. Mr. Merriam reported on the proposed rule amendments.

Public Comment: Jason Totoui, Everglades Law Center, supports this rule development.

11. Review of Water Shortage Conditions in the Upper East Coast and Lower East Coast Regions - Chip Merriam, Deputy Executive Director, Water Resources Management

Dean Powell, Director, Watershed Management Department, presented information on the water shortage conditions in the Upper East Coast and Lower East Coast. Mr. Powell reported that the rainfall in February and March was above average. Mr. Powell reported on staff's recommendations for restrictions:

Maintain modified Phase III Restrictions:

- Lake Okeechobee Service Area
- Indian Prairie Basin
- Lower East Coast Utilities at Risk (Lake Worth, Lantana, Hallandale Beach, Dania Beach)
- M-Canal Basin (including City of West Palm Beach)
- Sandstone Aquifer Users (Unincorporated Lee County, Lehigh Acres)

Reduce restrictions from Modified Phase III to Modified Phase II:

- Landscape irrigation restrictions reduced from 1 to 2 day a week
- Reduce golf course cutbacks from 45% to 30%

Upper East Coast

Lower East Coast

Lower West Coast

Kissimmee Basin

- Eliminate restrictions on Diversions and Impoundments, except within M Canal Basin

Effective Date: April 18, 2008.

Mr. Dauray commented on the consistency of water shortage and public outreach regarding the drought.

Ms. Estenoz provided comment on water storage capacity.

Mr. Wade provided comment on Phase 3 restrictions and economic harm.

Public Comment: Stephen Walker, Martin County Utilities, thanked the Board and staff working with Martin County on the water restrictions.

Everglades Restoration Resources

12. **Everglades Restoration Update** - Tommy Strowd, Assistant Deputy Executive Director, Everglades Restoration Resources

This item was postponed.

Executive Office

13. **Overview of Chapter 373, Florida Statutes (Continued) - Legal Authority regarding Condemnation and Land Acquisition** - Carlyn Kowalsky, Managing Attorney, Office of Counsel

This item was postponed.

Operations and Maintenance

14. **Update on Lake Okeechobee Emergency Actions for Structure Stability** - Cled Weldon, Director, Engineering Department

This item was postponed.

Executive Office

15. Closed Door Session

Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2007) to discuss strategy related to litigation expenditures in United States of America v. South Florida Water Management District, et al. United States District Court, Southern District of Florida, Case No. 88-1886-CIV-Moreno. (Sheryl G. Wood, Ext. 6976)

Action Items (if any) Stemming from Closed Sessions

Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2007) to discuss strategy related to litigation expenditures in United States of America v. South Florida Water Management District, et al. United States District Court, Southern District of Florida, Case No. 88-1886-CIV-Moreno. (Sheryl G. Wood, Ext. 6976)

This item was postponed.

- 16.** Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2007) to discuss strategy related to litigation expenditures in Friends of the Everglades, Inc. and Fishermen Against Destruction of the Environment, Inc. v. South Florida Water Management District, et al., United States District Court, Southern District of Florida, Case No. 02-80309-CV-Altonaga/Turnoff; Miccosukee Tribe of Indians of Florida v. South Florida Water Management District, et al., United States District Court, Southern District of Florida, Case No. 98-6056-CIV-Lenard/Klein; and Friends of the Everglades v. South Florida Water Management District, United States District Court, Southern District of Florida, Case No. 98-6057-CIV-Lenard/Klein. (Sheryl G. Wood, Ext. 6976)

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This item was postponed.

- 17.** Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2007) to discuss strategy related to litigation expenditures in Natural Resources Defense Council, Inc., et al. v. Van Antwerp, et al., United States District Court, Southern District of Florida, Case No. 07-80444-CIV-Middlebrooks. (Sheryl G. Wood, Ext. 6976)

Action Items (if any) Stemming from Closed Sessions

Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2007) to discuss strategy related to litigation expenditures in Natural Resources Defense Council, Inc., et al. v. Van Antwerp, et al., United States District Court, Southern District of Florida, Case No. 07-80444-CIV-Middlebrooks. Sheryl G. Wood, Ext. 6976)

Sheryl Wood, General Counsel, reported no action be taken on Agenda Item 17.

18. Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2007) to discuss strategy related to litigation expenditures in Teitelbaum, et al., v. South Florida Water Management District, Eleventh Judicial Circuit, Miami-Dade County, Florida, Case No. 04-21282 CA 15. (Sheryl G. Wood, Ext. 6976)

Action Items (if any) Stemming from Closed Sessions

Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2007) to discuss strategy related to litigation expenditures in Teitelbaum, et al., v. South Florida Water Management District, Eleventh Judicial Circuit, Miami-Dade County, Florida, Case No. 04-21282 CA 15. (Sheryl G. Wood, Ext. 6976)

Chair Buermann announced that the Governing Board would adjourn to Closed Door Session. Chair Buermann said the meeting would reconvene in one hour.

Chair Buermann reconvened the meeting at 5:25 pm.

Sheryl Wood, General Counsel, reported action would be taken on Agenda Item 18. Ed Artau, Sr. Attorney, presented information on this agenda item.

Action Item:

1. Rescind Resolution 95-04 (objections to any local government comprehensive plan amendments pending a specific design for the project) and subsequent communications or actions, if any, taken or communicated pursuant to said Resolution.

Motion made by Michael Collins, seconded by Melissa Meeker. Vote called. Voting yes: Eric Buermann, Charles Dauray, Melissa Meeker, Shannon Estenoz, Patrick Rooney, Michael Collins. Motion passed.

See Resolution 2008-437;

2. Rescind Resolution 2002-191 authorizing condemnation of 402.04 acres, and the related funding resolution advising DEP (Resolution 2002-190).

Motion made by Michael Collins, seconded by Melissa Meeker. Vote called. Voting yes: Eric Buermann, Charles Dauray, Melissa Meeker, Shannon Estenoz, Patrick Rooney, Michael Collins. Motion passed.

See Resolution 2008-438;

3. Rescind Resolution 2002-755 authorizing condemnation of 412-26 acres, and the related funding resolution advising DEP (Resolution 2002-773).

Motion made by Michael Collins, seconded by Melissa Meeker. Vote called. Voting yes: Eric Buermann, Charles Dauray, Melissa Meeker, Shannon Estenoz, Patrick Rooney, Michael Collins. Motion passed.

See Resolution 2008-439

- 19.** Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2007) to discuss strategy related to litigation expenditures in South Florida Water Management District v. Wherrell, et al., Nineteenth Judicial Circuit, Okeechobee County, Florida, Case No. 2007-CA-253. (Sheryl. G. Wood, Ext. 6976)

Action Items (if any) Stemming from Closed Sessions

Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2007) to discuss strategy related to litigation expenditures in South Florida Water Management District v. Wherrell, et al., Nineteenth Judicial Circuit, Okeechobee County, Florida, Case No. 2007-CA-253. (Sheryl. G. Wood, Ext. 6976)

Sheryl Wood, General Counsel, reported action would be taken on Agenda Item 19. Michael Compagno, Sr. Attorney, presented information on this agenda item.

Requested motion:

To authorize staff to negotiate, and to authorize the Executive Director to execute, all documents necessary to implement a settlement agreement in SFWMD v. Wherrell as follows:

Settlement amount of \$3,291,382, including:
Acquisitions in fee (as modeled by Corps)
Flowage easement (as modeled by Corps)
Substantial release of future inverse claims by landowner, runs with land (as conceptually agreed upon with staff)
Additional flowage easement for area abutting 5 year and 100 year floodplains (as conceptually agreed upon with staff)

and, attorneys fees & costs pursuant to statute.

Motion made by Melissa Meeker. Vote called. Voting yes: Eric Buermann, Charles Dauray, Melissa Meeker, Patrick Rooney, Michael Collins. Not present: Shannon Estenoz. Motion passed.

See Resolution 2008-440.

- 20. Adjourn**

Chair Buermann adjourned the meeting at 5:30 pm.

Eric Buermann
Governing Board Chairman
South Florida Water Management District Governing Board

Recorded By:

Cathy Widness
Administrative Assistant Senior
Governing Board and Executive Services
SFWMD

Motion made by Michael Collins, seconded by Melissa Meeker to Approve the following item(s): 20
Motion to adjourn the meeting.

Vote called. Voting yes: Michael Collins, Melissa Meeker, Eric Buermann, Charles Dauray, Shannon Estenoz, Patrick Rooney. Not present: Paul C. Huck Jr., Jerry Montgomery, Malcolm Wade. Motion passed.